



**ACTION:** Amended Notice of Proposed Rulemaking  
Title 28, California Code of Regulations

**SUBJECT:** Block Transfer Filings, Control #2003-0298, Adopting Section 1300.67.1.3 in  
Title 28, California Code of Regulations

**PUBLIC PROCEEDINGS:** Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to adopt regulations under the Health Care Service Plan Act of 1975 (Act) relating to block transfer filings by adopting section 1300.67.1.3 in Title 28, California Code of Regulations. Before undertaking the action, the Director will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice.

**PUBLIC HEARING:** Pursuant to Government Code section 11346.8(a), the Department of Managed Health Care (Department) has scheduled a public regulatory hearing on file #2003-0298, Block Transfer Filings.

The public hearing is scheduled to take place on Tuesday, November 30, 2004 at the following location: 980 9<sup>th</sup> Street, Suite 200 Conference Room A, Sacramento CA 95814.

The public hearing will begin promptly at 10:00 am. Public comments shall be limited to the subject of the text of the regulation and should be no more than five (5) minutes in length. The hearing may be brief depending on the number of speakers. The Department reserves the right to respond to comments and questions at a later time in writing.

Should you have questions or comments regarding the public hearing, you may contact Elaine Paniewski, Staff Service Analyst, Office of Legal Services, (916) 322-6727.

Individuals who require accommodations pursuant to the Americans with Disabilities Act are requested to contact Elaine Paniewski at least three days prior to the scheduled meeting date. TDD users may contact the Department at (877) 688-9891.

**WRITTEN COMMENT PERIOD:** Any interested person, or his or her authorized representative may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Office of Legal Services, Department of Managed Health Care, by 5 p.m. on **December 1, 2004**, which is hereby designated as the close of the written comment period.

Based upon comments received, the Department has re-opened the public comment period until December 1, 2004. The previous close of the public comment period was September 13, 2004.

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Comments may be transmitted by regular mail, FAX or email:

Email: [regulations@dmhc.ca.gov](mailto:regulations@dmhc.ca.gov)

Mail Delivery: Regulation Coordinator  
Department of Managed Health Care  
Office of Legal Services  
980 9<sup>th</sup> Street, Suite 500  
Sacramento CA 95814

Fax: (916) 322-3968

Please note, if comments are sent via email or fax, there is no need to send the same comments by mail delivery. All comments, including email, fax transmissions or mail delivery should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited. Please address all comments to the Department of Managed Health Care, Office of Legal Services.

1. Inquiries regarding the substance of the proposed regulation described in this notice may be directed to Braulio Montesino, Staff Counsel, at (916) 322-6727.
2. All other inquiries concerning the action described in this notice may be directed to Elaine Paniewski, Staff Service Analyst, at (916) 322-6727.

CONTACTS: Please identify the action by using the Department's regulation control number and title, **2003-0298 Block Transfer Filings** in any of the above inquiries.

AVAILABILITY OF DOCUMENTS: Materials regarding the proposed regulations (including this public notice, the proposed regulations, and the Initial Statement of Reasons) are available via the internet. The documents may be accessed at <http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations. As required by the Administrative Procedure Act, the Department's Office of Legal Services maintains the rulemaking file. At the present time, the rulemaking file consists of the text of the regulations, the initial statement of reasons, and the notice. The rulemaking file is available for public inspection at the Department of Managed Health Care, Office of Legal Services, 980 9<sup>th</sup> Street, Suite 500, Sacramento, CA 95814. To view the file, please call to make an appointment: (916) 322-6727.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW: California Health and Safety code sections 1344 and 1346 vest the Director with the power to administer and enforce the provisions of the Act.

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California Health and Safety Code section 1344 mandates that the Director have the ability to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter. In addition, the Director may honor requests from interested parties for interpretive opinions.

California Health and Safety Code section 1346 vests in the Director the power to administer and enforce the Act, including but not limited to recommending and proposing the enactment of any legislation necessary to protect and promote the interests of plans, subscribers, enrollees, and the public.

AB 1286 added Chapter 2.2, section 1373.65 of the Health and Safety Code (section 1373.65) requiring plans to submit a block transfer filing to the Department at least 75 days prior to the termination of its contract with a provider group or a general acute care hospital. This section further requires 60-days notice of the contract's termination to enrollees assigned to the terminated provider. Section 1373.65 specifies the requirements for plan covered services, including surgery, by the terminated provider. The proposed regulation clarifies and makes specific the requirements of section 1373.65 to ensure continuity of care to enrollees.

**AUTHORITY:** Health and Safety Code sections 1342, 1344, and 1346

**REFERENCE:** Health and Safety Code section 1373.65

**AVAILABILITY OF MODIFIED TEXT:** The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be addressed to Elaine Paniewski, Staff Service Analyst, at (916) 322-6727. The Director will accept written, faxed or e-mailed comments on the modified regulation(s) for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:** Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Elaine Paniewski, Staff Service Analyst, at (916) 322-6727 or available on the internet at <http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations.

**ALTERNATIVES CONSIDERED:** Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to its attention, would be more effective in carrying out

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the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

#### FISCAL IMPACT STATEMENT:

- Mandate on local agencies and school districts: None
- Cost or Savings to any State Agency: None
- Direct or Indirect Costs or Savings in Federal Funding to the State: None
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None
- Costs to private persons or businesses directly affected: The Department is not aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None
- Other non-discretionary cost or savings imposed upon local agencies: None

#### DETERMINATIONS:

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has determined that the regulations will have no impact on housing costs.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined that the regulations will not significantly affect the creation of new businesses, or the elimination of existing businesses within the State of California.

The Department has determined that the regulations will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses currently doing business within the State of California.

#### FINDING REGARDING REPORTING REQUIREMENT:

Government Code section 11346.3(c) provides as follows:

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“No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.”

All reporting requirements included in these regulations do apply to businesses because the Department has determined that the regulations are necessary to maintain the health, safety and welfare of the people of the State of California.

**AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT, AND RULEMAKING FILE:**

The Department has prepared and has available for public review the following documents:

1. Initial Statement of Reasons
2. Text of proposed regulations
3. All information upon which the proposal is based (rulemaking file)

This information is available by request at the Department of Managed Health Care, Office of Legal Services, 980 9<sup>th</sup> St., Sacramento, CA 95814, or on our website at <http://www.hmohelp.ca.gov/library/regulations/>, under the heading, Proposed Regulations.

Dated: October 8, 2004  
Sacramento, California

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Brian J. Bartow  
Assistant Chief Counsel

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